



## **Charter School Revocation Appeal Process – Guidance Document**

### **Appealing an LEA's Revocation Decision**

*Disclaimer: This document is for guidance purposes only and does supersede any statute, rule, or policy. Local boards of education and sponsors may be held to requirements and deadlines not contained in this document.*

#### **Overview of the Appeal Process**

Pursuant to Tennessee Code Annotated (T.C.A.) § 49-13-122, the decision by a local education agency (LEA) to revoke a charter agreement may be appealed to the State Board of Education (State Board). However, if the LEA revoked the charter agreement in accordance with T.C.A. § 49-13-122(a) because the charter school was designated as a priority school, the decision cannot be appealed to the State Board.<sup>1</sup>

#### **Standard of Review**

The State Board staff will conduct a de novo, on the record review of the revocation decision, taking into account any additional information gathered at the discretion of the State Board staff. At the conclusion of the review, the Executive Director of the State Board will issue an Executive Director's Findings and Recommendation Report to the Board members. The State Board members will vote on whether to uphold or overturn the LEA's decision to revoke the charter. In order to overturn an LEA's decision to revoke a charter agreement, the State Board must find that such decision was contrary to T.C.A. § 49-13-122.<sup>2</sup>

#### **Statutes and Policies Governing the Revocation Appeal Process**

The following statute and State Board Policies govern the revocation appeal process, and the State Board staff suggests that any operator or local board of education participating in the appeal process be familiar with the contents of these documents:

- T.C.A. § 49-13-122<sup>3</sup>
- State Board [Policy 2.500 – Charter School Appeals](#)
- State Board [Policy 6.110 – Charter School Revocation](#)

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<sup>1</sup> Pursuant to T.C.A. § 49-13-122(b), a charter school's identification as a priority school that is scheduled to close under T.C.A. § 49-13-122(a) shall be entitled to a review by the Department of Education to verify the accuracy of the data used to identify the school as a priority school.

<sup>2</sup> State Board [Policy 6.110 – Charter School Revocation](#)

<sup>3</sup> Available at <http://www.lexisnexis.com/hottopics/tncode/>

### **Guidance for Operators Submitting Appeals**

Charter school operators submitting an appeal of an LEA's revocation decision must do so in accordance with T.C.A. § 49-13-122 and State Board [Policy 6.110 – Charter School Revocation](#). **The notice of appeal must be submitted to the General Counsel of the State Board within ten (10) calendar days of the LEA's revocation decision. Unless the State Board requests additional information from the operator, any materials submitted after 4:30 p.m. Central Time on the tenth (10th) calendar day will not be considered as a part of the official record.** For the State Board to consider the notice of appeal, it must contain both of the following:

- Copy of the statement issued by the LEA stating its reasons for revocation as required by T.C.A. § 49-13-122(b).
- Brief statement, no longer than three (3) pages, explaining why the LEA erred in revoking the charter agreement under T.C.A. § 49-13-122.

The State Board will meet and render a final decision on each appeal within sixty (60) calendar days of receipt of the notice of appeal.<sup>4</sup> The State Board may meet at a special-called meeting or at a regularly scheduled meeting. The State Board will consider the Executive Director's Findings and Recommendation Report for the appeal, but the Board is not bound by the recommendation.

### **Guidance on the Request for Information**

Upon receipt of an appeal, State Board staff will notify representatives of the LEA that an appeal has been received and request information from both the local board of education and the operator including, but not limited to, the following:

- Copies of the approved charter school application and signed charter agreement between the Governing Body and the LEA, including any exhibits to the charter agreement;
- Timeline of the approval of the original charter application and any renewals of the charter school approved by the LEA;
- Timeline of the revocation decision, including notices to the Governing Body, any corrective action plans, and opportunities for the Governing Body to be heard on the evidence;
- Copies of all correspondence from the LEA to the Governing Body regarding the status of the charter school, including notices of good standing, compliance or non-compliance with the charter agreement, policy, or statute, and any plans of corrections required by the LEA of the Governing Body;
- Any information or materials presented to the local board of education in support of the recommendation to revoke;
- Any evidence supporting or refuting the LEA's reasons for revocation;

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<sup>4</sup> Unless otherwise agreed to by the LEA and the sponsor to extend the deadline. T.C.A. § 49-13-122; State Board [Policy 6.110 – Charter School Revocation](#).



- A copy of the transcript and presentation(s) from the local board of education's meeting when the charter agreement was revoked; and
- Copies of all reports, including any annual reports, site visit reports, and five-year interim reports from the LEA to the Governing Body on the performance status of the charter school.
- Copies of all annual financial audits submitted by the Governing Body to the LEA, the Commissioner of Education, and the Comptroller of the Treasury in accordance with T.C.A. § 49-13-127.

The information must be submitted within five (5) business days of the request, and the information should be submitted via a file-sharing website (e.g., Dropbox, Box.com, Google Drive, etc.) with clearly labeled folders and documents for the requested information.<sup>5</sup>

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<sup>5</sup> State Board [Policy 6.110 – Charter School Revocation](#)



## Frequently Asked Questions

### **1. How long does the appeal process take?**

The State Board has to render a decision on an appeal within sixty (60) calendar days of the receipt of the notice of appeal.<sup>6</sup> Typically, the State Board's meeting to render a decision on an appeal is near the end of the sixty (60) calendar day timeframe.

### **2. Who is my main contact during an appeal?**

The State Board's General Counsel and Deputy Director of Charter Schools are your primary contacts and can be reached at [CharterSchool.Appeals@tn.gov](mailto:CharterSchool.Appeals@tn.gov).

### **3. Can the State Board's decision on an appeal be expedited?**

The State Board understands the desire to expedite the decision since it impacts students, parents, employees, the community, and the LEA. However, the State Board and its staff take the appeal process very seriously and believe that it is important to conduct a thorough and high quality review of all information submitted as a part of the appeal process and the public hearing. This process takes time. Additionally, if a special-called meeting must be scheduled, it can take time to find a favorable date, time, and location for the State Board to meet. Given this, while the State Board will work as quickly as possible to decide on the appeal, we cannot promise that the process will be expedited.

### **4. Can either party receive copies of the information submitted by the operator or LEA as a part of the appeal process?**

Upon written request to [CharterSchool.Appeals@tn.gov](mailto:CharterSchool.Appeals@tn.gov), State Board staff will provide the information submitted by the operator on appeal or the information submitted by the LEA as a part of the request for information.

### **5. Can an LEA move forward with closure procedures required in T.C.A. § 49-13-122(g) if the operator has appealed the revocation decision?**

T.C.A. § 49-13-130 lays out the responsibilities for LEAs and charter schools regarding the closure of a charter school after a chartering authority's decision to revoke a charter agreement. Therefore, an LEA is in compliance with its statutory charge by moving forward with initial closure proceedings. However, the State Board recommends that any communication to parents, students, employees, vendors, or other stakeholders clearly explain that an appeal is in process.

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<sup>6</sup> Unless otherwise agreed to by the LEA and the operator to extend the deadline pursuant to T.C.A. § 49-13-122 and State Board [Policy 6.110 – Charter School Revocation](#).

## **6. What does the State Board analyze in an appeal?**

The State Board staff will conduct a de novo, on the record review of the revocation decision, taking into account any additional information gathered at the discretion of the State Board staff, and will provide a recommendation to the Executive Director of the State Board. In order to overturn an LEA's decision to revoke a charter agreement, the State Board must find that such decision was contrary to the T.C.A. § 49-13-122. The State Board will consider, but is not bound by, the Executive Director's Recommendation. The two main parts of the recommendation report are:

- **Part 1: Public Hearing and Public Comment:** The State Board will hold a public hearing on the appeal during the sixty (60) calendar days that the State Board is considering an appeal. The public hearing is held in the local school district in which the applicant operates, and the hearing gives the LEA, the governing board, and the local community the opportunity to be heard on the revocation appeal. Specific details regarding the hearing can be found in State Board policy [6.110 – Charter School Revocation](#). The public hearing will be held in accordance with Section 5 of State Board policy [2.500 - Charter School Appeals](#), provided that any reference to "sponsor" shall be deemed to mean the governing body.
  - a. At any point prior to the public hearing and up to the deadline set by the State Board, the public may submit written comments to the State Board for consideration in the Executive Director's recommendation. All written comments submitted to the State Board office are provided to the members of the State Board. The State Board staff will set a deadline by which no further written comments will be accepted, and this deadline will be stated on the public hearing agenda and the State Board's website.
- **Part 2: State Board Staff Review of the Record:** The State Board staff will conduct an on the record review of all documentation submitted by the operator and the LEA and any additional information collected at the staff's discretion. This documentation includes all materials submitted within the notice of appeal by the operator, all materials submitted by the LEA, information received during the public hearing and via public comments, and information collected at the staff's discretion.

## **7. What could the Executive Director recommend?**

Following the public hearing and the review of the LEA's decision to revoke the charter agreement, the Executive Director of the State Board will provide a written recommendation to the Board members.<sup>7</sup> The Executive Director may recommend the State Board:

- Affirm the decision of the LEA, or

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<sup>7</sup> State Board [Policy 6.110 – Charter School Revocation](#)

- Overturn the decision of the LEA. If the State Board overturns the decision, the LEA will remain the chartering authority.

#### **8. When is the Executive Director's recommendation published online?**

Typically, the Executive Director's Findings and Recommendation report is posted on the State Board's website a few business days prior to the Board's meeting. It will be available as a link under the agenda item for the revocation appeal.

#### **9. What is the State Board's decision making process?**

The State Board will meet at a special-called meeting or a regularly scheduled quarterly meeting to render a decision within sixty (60) calendar days of receipt of the notice of appeal.<sup>8</sup> If the Board renders a decision at a special-called meeting, the Board will discuss the Executive Director's recommendation prior to the vote on the agenda item. If the Board renders a decision at a regularly scheduled quarterly meeting, the Board will discuss the Executive Director's recommendation at the State Board's workshop, usually held the day before the meeting.<sup>9</sup> All State Board meetings and workshops are livestreamed, and the link will be available on the State Board's website.

#### **10. Is there time for public comment on the appeal at the State Board meeting?**

Requests for public comment at State Board meetings are governed by State Board policy [1.400 – Board Meetings](#). The meetings are open to the public and livestreamed online. All individuals wishing to comment on an appeal are encouraged to attend the appeal's public hearing or submit a written comment in accordance with the State Board's published guidelines and deadlines.

#### **11. What happens after the State Board renders a decision?**

The sponsor and the LEA will be notified via U.S. Mail of the State Board's decision on the charter school appeal. Except in the case of fraud, misappropriation of funds, or flagrant disregard of the charter agreement or similar misconduct, the LEA's decision to revoke a charter agreement, if affirmed by the State Board, will become effective at the close of the school year, and the closure process of the charter school is governed by the LEA pursuant to T.C.A. § 49-13-122(g). If the State Board overturns the decision of the LEA, the charter school shall continue to operate and the LEA will remain the chartering authority.<sup>10</sup>

#### **12. Can the State Board's decision be appealed?**

The State Board's decisions in appeals are final.<sup>11</sup>

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<sup>8</sup> Unless otherwise agreed to by the LEA and the sponsor to extend the deadline. T.C.A. § 49-13-108(a)(4); State Board [Policy 6.110 – Charter School Revocation](#).

<sup>9</sup> State Board [Policy – 2.500 Charter School Appeals](#)

<sup>10</sup> State Board [Policy 6.110 -- Charter School Revocation](#)

<sup>11</sup> State Board [Policy 6.110 – Charter School Revocation](#)



**13. If the State Board affirms the local board of education's decision to revoke the charter agreement, can the operator submit an application in the following year?**

Yes, the operator is able to submit a new application the following year.

**14. Who should I contact with additional questions?**

Please contact the General Counsel or the Deputy Director of Charter Schools at [CharterSchool.Appeals@tn.gov](mailto:CharterSchool.Appeals@tn.gov).